

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|  |   |                                 |
|--|---|---------------------------------|
| FAUSTINO CHAPA, IV, on behalf of himself | ) |                                 |
| and others similarly situated,           | ) | Case No. 1:13-cv-03957          |
|  | ) |                                 |
| Plaintiff,                               | ) |                                 |
|  | ) |                                 |
| v.                                       | ) |                                 |
|  | ) |                                 |
| TRUGREEN, INC.,                          | ) | Hon. Judge Harry D. Leinenweber |
|  | ) |                                 |
| Defendant.                               | ) |                                 |

**UNOPPOSED MOTION FOR CY PRES DISTRIBUTION**

Pursuant to the parties' class action settlement agreement in this matter, plaintiff Faustino Chapa hereby requests that the Court approve distribution of remaining settlement funds to *cy pres*, and states as follows:

1. This class action alleges that defendant TruGreen, Inc. made calls to the cellular telephone numbers of plaintiff and others using an automatic telephone dialing system, in violation of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227.

2. On January 27, 2015, the Court entered final approval of the parties' class action settlement of this matter which required defendant's payment of \$4.45 million in settlement benefits. No class member objected to the settlement.

3. Since final approval, the claims administrator, Dahl Administration, LLC, has distributed all settlement funds in accordance with the parties' settlement agreement and this Court's final approval order, ECF No. 50, and reports that a total of \$82,549.98 in uncashed checks remains after such distribution. (Dahl Decl. ¶ 12.)

4. Pursuant to the Settlement Agreement, ¶ 5.4, any amounts left remaining in the settlement fund in uncashed checks and similar undistributed funds are to be distributed to a Court-approved *cy pres* recipient.

5. The parties propose a *cy pres* distribution of any remaining settlement funds to the Electronic Frontier Foundation, a non-profit organization that works to promote the protection of consumer privacy, the interest Congress sought to protect in enacting the TCPA. See <https://www.eff.org/about>.

WHEREFORE, plaintiff Faustino Chapa respectfully requests that the Court approve the Electronic Frontier Foundation as *cy pres* recipient, and order that all remaining settlement funds be distributed to it.

Dated: July 18, 2016

Respectfully submitted,

FAUSTINO CHAPA, IV, on behalf  
of himself and others similarly situated

By: /s/ Daniel J. Marovitch

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*Counsel for Plaintiff and the Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2016, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Daniel J. Marovitch